

Message Text

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SUBJECT: LOS: MEETING OF AALCC

REF: NEW DELHI 0903

SUMMARY -- REPRESENTATIVES OF THIRTY-THREE MEMBER-GOVERNMENTS OF THE ASIAN-AFRICAN LEGAL CONSULATIVE COMMITTEE MET IN DELHI FEBRUARY 2-6 TO REVIEW PROVISIONS OF THE LOS SINGLE NEGOTIATING TEXTS. BOTH SECRETARY-GENERAL SEN AND MEA LEGAL ADVISER APPEAR SATISFIED WITH THE RESULTS ALTHOUGH THEY ARE NOT SAYING MUCH ABOUT SUBSTANCE OR THE EXTENT OF AGREEMENT REACHED. A SOUTH KOREAN EMBOFF WHO ATTENDED DESCRIBED THE MEETING TO US AS LARGELY A "REPETITION OF THE SAME STORY". END SUMMARY.

1. ACCORDING TO SECRETARY-GENERAL SEN OF THE ASIAN-AFRICAN LEGAL CONSULLATIVE COMMITTEE, THE MAIN ACCOMPLISHMENT OF THE FIVE-DAY AALCC MEETING ON LOS ISSUES
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WAS THE ACHIEVEMENT OF A CONSENSUSHRHAT THE SINGLE

NEGOTIATING TEXTS SHOULD BE THE BASIS FOR FUTURE NEGOTIATIONS EVEN IF THEIR SPECIFIC PROVISIONS WERE NOT TO BE TAKEN AS "CONCLUSIVE". SEN MADE THIS POINT IN AN AALCC PRESS RELEASE FEBRUARY 8 AND AT A PRESS BRIEFING AFTER THE CONCLUSION OF THE DELHI SESSION IN WHICH THIRTY-THREE ASIAN/AFRICAN MEMBER-GOVERNMENTS TOOK PART. SEN COUPLED HIS STATEMENT WITH THE UNSURPRISING OBSERVATION THAT IF GOVERNMENTS REVERTED TO THEIR NATIONAL POSITIONS AND REITERATED THEIR EARLIER VIEWS, THE CHANCES FOR PROGRESS IN NEW YORK WOULD BE VERY SLIM NOTWITHSTANDING THE FACT IT WAS IN ALL STATES' INTEREST TO ENSURE THE CONCLUSION OF A CONVENTION BY 1977.

2. THE DELHI MEETING REPORTEDLY DEVOTED THREE OF ITS FIVE SESSIONS TO THE QUESTION OF THE EXPLORATION AND EXPLOITATION OF THE INTERNATIONAL SEABED. SECRETARY-GENERAL SEN SAID THERE WAS DETAILED TREATMENT OF SUCH QUESTIONS AS WHO MAY EXPLOIT A GIVEN AREA IF THE INTERNATIONAL SEABED AUTHORITY IS NOT IN A POSITION TO DO SO, WHETHER CONTRACTS FOR EXPLORATION AND EXPLOITATION SHOULD BE GIVEN ON THE BASIS OF BIDS, WHETHER PRIVATE CORPORATIONS SHOULD HAVE ACCESS TO THE INTERNATIONAL SEABED AREA, ETC. ACCORDING TO THE TIMES OF INDIA (FEBRUARY 10) THOSE ATTENDING THE AALCC MEETING "APPEARED AMENABLE" TO THE VIEW THAT IF THE INTERNATIONAL SEABED AUTHORITY WAS UNABLE TO EXPLOIT RESOURCES ITSELF, IT COULD FARM OUT LEASES TO INDIVIDUAL GOVERNMENTS OR CORPORATIONS. "BUT THERE SHOULD BE NO BIDDING AND LEASES SHOULD BE DECIDED BY NEGOTIATION". A SOUTH KOREAN EMBOFF WHO ATTENDED THE SESSION TOLD US HOWEVER THAT THE MOST WHICH COULD BE SAID ABOUT THE AUTHORITY WAS THAT SOME REPRESENTATIVES WERE FOR A STRONGER, SOME FOR A WEAKER INSTITUTION, AND THE OVERALL DISCUSSION WAS INCONCLUSIVE. THE SOUTH KOREAN PRIVATELY CHARACTERIZED THE AALCC MEETING AS LARGELY A "REPETITION OF THE SAME STORY", IN PART BECAUSE MANY LOS EXPERTS WERE UNABLE TO ATTEND BECAUSE OF COMMITMENTS IN NEW YORK OR ELSEWHERE.

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3. WITH REGARD TO OBE SCOPE OF THE ECONOMIC ZONE, A MAJORITY OF THE REPRESENTATIVES IN DELHI WERE SAID TO HAVE SUPPORTED THE SINGLE NEGOTIATING TEXT PROVISIONS THAT COASTAL STATES SHOULD NOT ONLY HAVE SOVEREIGN RIGHTS OVER THE RESOURCES OF THE AREA BUT SHOULD ALSO HAVE JURISDICTION AND CONTROL OVER MARINE POLLUTION, THE CONDUCT OF SCIENTIFIC RESEARCH AND THE LAYING OF CABLES AND PIPELINES. SUBJECTS WHICH ALSO CAME UP FOR DISCUSSION

BUT ON WHICH THERE WAS NO RPT. NO MENTION OF "A MAJORITY" OR A "CONSENSUS" EMERGING WERE THE EXTENSION OF SOVEREIGN RIGHTS BEYOND THE ECONOMIC ZONE WHERE THE CONTINENTAL SLOPE REACHED "ON THE BASIS OF A NATURAL PROLONGATION THEORY"; THE RIGHTS OF LANDLOCKED STATES TO A SHARE OF THE NON-LIVING RESOURCES OF NEIGHBORING COASTAL STATES; AND THE SPECIAL REGIMES APPLICABLE IN PARTICULAR GEOGRAPHICAL SITUATIONS, SUCH AS SEMI-ENCLOSED SEAS AND ARCHIPELAGOS. ACCORDING TO THE SAME AALCC PRESS RELEASE, IT WAS NOT POSSIBLE DURING THE FIVE-DAY SESSION TO HAVE DETAILED DISCUSSIONS OF STRAITS QUESTIONS, INCLUDING THE IMPLICATIONS OF THE CONCEPT OF "TRANSIT PASSAGE", AND TECHNICAL ASPECTS OF THE SCIENTIFIC RESEARCH, TRANSFER OF TECHNOLOGY AND PRESERVATION OF MARINE ENVIRONMENT QUESTIONS. IN DESCRIBING AREAS OF DISCUSSION SEN WAS CAREFUL NOT TO REVEAL DIFFERENT REPRESENTATIVES' POSITIONS. THE AALCC PRESS RELEASE DID NOTE, HOWEVER, THAT "SEVERAL PARTICIPANTS WERE CRITICAL" OF THE SINGLE TEXT PROVISIONS CONCERNING SETTLEMENT OF DISPUTES AND THE CONSTITUTION OF A TRIBUNAL PATTERNED ON THE ICJ.

4. COMMENT -- DR. JAGOTA TOLD AN EMBOFF WHO BRIEFED HIM FEBRUARY 11 ON THE SENATE'S 200-MILE FISHERIES BILL THAT THE PRINCIPLE PURPOSE OF THE AALCC MEETING WAS TO APPRISE MEMBER-GOVERNMENTS OF THE PROVISIONS OF THE SINGLE NEGOTIATING TEXTS AND TO DRAW ATTENTION TO THEIR VARIOUS IMPLICATIONS. HE WAS SATISFIED WITH THE RESULTS. HOWEVER HE HAD NOT SEEN SEN'S PRESS RELEASE OR NEWS REPORTS ON THE MEETING AND WAS RELUCTANT TO COMMENT ON WHAT TRANSPIRED SINCE THE EXCHANGES WERE "CONFIDENTIAL" AND DEFINITIVE POSITIONS WERE NOT ADOPTED. DR. JAGOTA ALSO DECLINED COMMENT ON THE TIMES OF INDIA
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CHARACTERIZATION OF THE SEABED AUTHORITY DISCUSSION AND SAID THAT WHILE HE PERSONALLY AGREED WITH SEN THAT A TREATY SHOULD BE CONCLUDED BY 1977 THERE WAS NO POSITION ADOPTED EVEN ON THIS QUESTION AT THE MEETING. JAGOTA INDICATED HE WAS NOT DISTURBED BY THE U.S. SENATE'S ACTION SINCE "THE LAW HAS BEEN EVOLVING IN THAT DIRECTION ANYWAY", BUT HE THOUGHT ITS IMPLICATIONS FOR UNILATERAL ACTION IN OTHER AREAS (HE MENTIONED THE MINING OF MANGANESE) WERE WORRISOME.
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